

HILLSBOROUGH COUNTY SUPERIOR COURT
NORTHERN DISTRICT

300 Chestnut Street
Manchester, N.H. 03101
(603) 669-7410

RECEIPT OF WRIT

Date: December 10, 2007

DOCKET NUMBER: 07-C-750

Kim Walker, et als

v. Thibco, Inc., et al

The writ in the above- captioned matter was filed with the Clerk of this Court on: **DECEMBER 6, 2007**

The Plaintiff or his/her attorney is to attach a copy of this receipt to identical copies of the original writ and deliver them to the Sheriff or other legally authorized entity for service on each named defendant. Sufficient copies shall be provided to allow for a service copy for each named defendant and a copy for each officer completing service to complete the return. The return copies shall be filed with the court in accordance with Superior Court Rule 3.

By Order of the Court

John M. Safford, Clerk

JMS/af

cc: Jon Meyer, Esq.

COUNT I
VIOLATION OF RSA 275:43

12. Pursuant to RSA 275:42 (III) the term "wages" includes pension fund contributions made pursuant to an agreement adopted for the benefit of an employee and agreed to by his employer for the labor or services rendered by the employee.
13. Defendants failed to pay these wages when due as required by RSA 275:43.
14. Pursuant to RSA 275:53 Plaintiffs are entitled to recover their unpaid wages, liquidated damages in the same amount and their reasonable attorney's fees and costs.

COUNT II
BREACH OF CONTRACT

15. Defendants agreed to include payments for Plaintiffs' pension and annuity benefits as part of their compensation under their employment contract.
16. Defendants have breached this contract by failing to pay these contributions to the Plaintiffs.

WHEREFORE, the Plaintiffs respectfully request that this court order the Defendants pay to the Plaintiffs:

- A. The amount of the annuity and pension contributions made on their behalf by Defendants to the Carpenters Benefit Fund;
- B. An equal amount in liquidated damages; and
- C. Plaintiffs' reasonable attorney's fees and expenses.

1. Plaintiffs Kim Walker, Adam Teal, and Scott Long were formerly employed on a salaried basis by Defendant Thibco, Inc.
2. Plaintiff Colin Pilcher is currently employed by Defendant Thibco, Inc. as a salaried employee.
3. Defendant Thibco, Inc. is a company doing business in the field of construction with its principal office located in Manchester, New Hampshire.
4. Defendant Gerard L. Thibodeau is the principal owner and president of Thibco, Inc. He is an employer of the Plaintiffs within the meaning of RSA 275:42 (I).
5. On or about January, 2004 Defendants entered an agreement with the Plaintiffs to include payments toward annuity and pension benefits as part of Plaintiffs' Walker, Long and Pilcher's compensation for their employment.
6. Defendant entered into the same agreement with Plaintiff Teal when he began his employment.
7. Defendants made payments for this purpose on behalf of the Plaintiffs to the Massachusetts State Carpenters Pension Fund and Guaranteed Annuity Fund.
8. Defendants made payments in the following amounts:
 - A. Kim Walker - \$52,061 (annuity \$32,281 and pension \$19,780).
 - B. Adam Teal - \$10,013 (annuity \$6,316 and pension \$3,697); and
 - C. Colin Pilcher - \$52,538 (annuity \$32,571 and pension \$19,966);
 - D. Scott Long - \$39,686 (annuity \$24,505, pension \$15,181);
9. On or about April 2007 the parties were notified by the executive director of the Carpenters Benefit Funds that the four Plaintiffs were ineligible to participate in its pension and annuity programs.
10. The Carpenters Benefit Funds returned to the Defendants a portion of the above contributions and credited the balance against Defendants' obligation to make benefit payments on behalf of other employees.
11. Defendants have refused to pay to the Plaintiffs any part of the pension and annuity compensation that it had agreed to pay on their behalf with the exception of \$23,000 paid to Plaintiff Walker, and \$3,000 paid to Plaintiff Pilcher.

The State of New Hampshire

SUPERIOR COURT

HILLSBOROUGH COUNTY
NORTHERN DISTRICT

() COURT
(xx) JURY

WRIT OF SUMMONS

Kim Walker
14090 SW Teal Blvd-15C
Beaverton, OR 97008

Colin Pilcher
126 Crescent Hill Ave.
Arlington, MA 02474

Thibco, Inc.
41 Alpheus Street
Manchester, NH 03103

Adam Teal
4500 Steiner Ranch Blvd-3216
Austin, TX 78732

Scott Long
3307 N. El Dorado Dr.
Chandler, AZ 85224

VS.

Gerard L. Thibodeau
c/o Thibco, Inc.
41 Alpheus Street
Manchester, NH 03103

The Sheriff or Deputy of any County is ordered to summon each defendant to file a written appearance with the Superior Court at the address listed below by the return day of this writ which is the first Tuesday of February, 2008 YEAR MONTH

The PLAINTIFF(S) state(s):

SEE ATTACHED DECLARATIONS

and the Plaintiff(s) claim(s) damages within the jurisdictional limits of this Court.

INDORSER (sign and print name)

12/05/07
DATE OF WRIT

NOTICE TO THE DEFENDANT

The Plaintiff listed above has begun legal action against you. You do not have to physically appear in Court on the return day listed above since there will be no hearing on that day. However, if you intend to contest this matter, you or your attorney must file a written appearance form with the Clerk's Office by that date. (Appearance forms may be obtained from the Clerk's Office.) You will then receive notice from the Court of all proceedings concerning this case. If you fail to file an appearance by the return day, judgment will be entered against you for a sum of money which you will then be obligated to pay.

BACKUS, MEYER, SOLOMON & BRANCH, LLP

Witness, Robert J. Lynn, Chief Justice, Superior Court.

BY: SIGNATURE OF PLAINTIFF/ATTORNEY

John M. Safford
John M. Safford, Clerk
NH Superior Court Hillsborough County
Northern District
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Manchester NH 03101-2490
(603) 669-7410
213-003-3

Jon Meyer
PRINTED/TYPED NAME

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